

CC: TO JUDGE ~~ES~~

Hon. Thomas S. Zilly



05-CV-00670-TN

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APR - 8 2005 ES

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL B. HARGRAVES, MANUEL E.
WASHINGTON, MARK L. HENRY,
STEVEN L. DAMAN, and WALTER M.
HAYDEN, individuals and as representatives
of similarly situated City of Seattle Police
Department employees,

Plaintiffs,

vs.

CITY OF SEATTLE, apolitical subdivision of
the State of Washington,

Defendant.

No. C05-0670TSZ

KING COUNTY SUPERIOR COURT
CAUSE NO. 05-2-10210-1SEA

VERIFICATION OF RECORDS AND
PROCEEDINGS IN STATE COURT

I, JEFF SLAYTON, hereby declare the following:

I am an Assistant City Attorney for the City of Seattle, I represent the defendant named in this action, and am authorized to make this verification on the defendant's behalf. Pursuant to Local Civil Rule 101(b), I certify that attached are true and correct copies of all records and proceedings in the Superior Court of Washington for King County, Cause No. 05-2-10210-1SEA.

VERIFICATION OF STATE COURT RECORDS - 1


ORIGINAL

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 40th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

1 DATED this 8th day of April, 2005.

2 THOMAS A. CARR
3 Seattle City Attorney

4 By:

5 
6 Jeff Slayton, WSBA #14215
7 Assistant City Attorney

8 Attorneys for Defendant City of Seattle
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RECEIVED
05 MAR 28 PM 3:26
CITY OF SEATTLE
MAYOR'S OFFICE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL B. HARGRAVES, MANUEL E.) COLLECTIVE ACTION
WASHINGTON, MARK L. HENRY,)
STEVEN L. DAMAN, and WALTER M.) NO. 05-2-10210-(SEA
HAYDEN, individuals and as)
representatives of similarly situated City of) COMPLAINT
Seattle Police Department employees,)
Plaintiffs,)
v.)
CITY OF SEATTLE, a political)
subdivision of the State of Washington,)
Defendant.

COMES NOW Michael B. Hargraves, Manuel E. Washington, Mark L. Henry
Steven L. Daman, and Walter M. Hayden , and, by and through their attorneys, Aitchison
& Vick, Inc. by Will Aitchison, and for their complaint against Defendant City of Seattle
state as follows:

COMPLAINT - 1

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

I.

PARTIES AND JURISDICTION

1.1 Plaintiffs Michael B. Hargraves, Manuel E. Washington, Mark L. Henry Steven L. Daman, and Walter M. Hayden (referred to herein after as the "Plaintiffs") are each employed by the City of Seattle as police officers in the Seattle Police Department in King County, Washington.

1.2 Defendant City of Seattle (referred to herein as the "City") is a political subdivision of the State of Washington and is fully subject to the Fair Labor Standards Act ("FLSA") because it is a public agency within the meaning of 29 U.S.C. §203(x).

1.3 This Court has jurisdiction over this subject matter pursuant to 29 U.S.C. §216 (b). Relief is appropriate pursuant to 29 U.S.C. §216 (b).

1.4 Venue is properly vested in this Court pursuant to 4.12.025 because the Defendant transacts business in King County.

1.5 The Tort Claims Act, RCW 4.96 *et seq.*, does not apply to these causes of action in that they do not sound in tort.

II.

COLLECTIVE ACTION

2.1 Pursuant to 29 U.S.C. §216 (b), Plaintiffs bring this action for and on behalf of themselves and other similarly situated individuals.

III.

FACTUAL ALLEGATIONS

3.1 Plaintiffs are overtime eligible employees of Defendant City of Seattle in the Seattle Police Department.

3.2 Defendant is, and at all times relevant to the claims stated herein, engaged in related activities in connection with the activities of a public agency performed by any person or persons for a common business purpose. Defendant is, and at all times relative to the claims stated herein, an enterprise within the meaning of 29 U.S.C. § 203(r).

3.3 Defendant is, and at all times relevant to the claims stated herein was, an enterprise engaged in commerce or in the production of goods for commerce in that it is an activity of a public agency. Defendant is, and at all times relevant to the claims stated herein was, an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. §203(s).

3.4 The Seattle Center is owned and operated by the Defendant City of Seattle.

3.5 Defendant City of Seattle through the Seattle Police Department schedules Seattle Police Officers to work at the Seattle Center.

3.6 No exhaustion of remedies has been sought or is required in that this cause of action is individual and statutory and does not arise from either a breach of or an interpretation of any collective bargaining agreement.

IV.

FIRST CAUSE OF ACTION
VIOLATION OF FAIR LABOR STANDARDS ACT
FAILURE TO PAY OVERTIME COMPENSATION

4.1 Plaintiffs reallege the contents of Paragraphs 1.1 through 3.6 as though fully set forth herein.

4.2 Plaintiffs engaged in overtime hours worked for the Defendant City of Seattle at the Seattle Center.

4.3 Defendant has a routine practice of not paying Plaintiffs at one and one-half their regular rate of pay when Plaintiffs engage in overtime hours worked for Defendant at the Seattle Center.

4.4 As a result of the Defendant's practice, the overtime hours worked by the Plaintiffs are paid at the regular rate in violation of 29 U.S.C. §207(a) and 29 U.S.C. § 215 (a)(2).

4.5 Defendant City of Seattle's action in failing to pay the overtime compensation entitles each of the Plaintiffs to a judgment for their unpaid overtime compensation, an additional equal amount as liquidated damages together with their joint costs of suit and reasonable attorneys' fees under 29 U.S.C. §216 (b).

4.6 Defendant has willfully violated, and is willfully violating, the overtime compensation requirements of 29 U.S.C. §207 by failing to pay Plaintiffs at a rate of not less than one and one-half times the regular rate for hours in excess of the applicable maximum weekly hours established under 29 U.S.C. § 207.

PRAYER FOR RELIEF

1. For the award of unpaid overtime compensation plus an additional equal amount as liquidated damages to be paid to the named Plaintiffs and all others similarly situated;
2. For the Plaintiffs attorneys' fees and costs under applicable law, 29 U.S.C. §216 (b);
3. For an award of prejudgment interest as allowed by law;
4. For a finding that the Defendant acted willfully and thus the statute of limitations is three years under 29 U.S.C. §255 (a); and
5. For such other relief as the Court deems just and equitable.

RESPECTFULLY SUBMITTED this 28th day of March, 2005.

AITCHISON & VICK, INC.

Will Aitchison WSBA # 32658
By: for Will Aitchison
Will Aitchison, WSBA No. 32658
Of Attorneys for Plaintiffs

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

RECEIVED
05 MAR 28 PM 3:26
CITY OF SEATTLE
MAYOR'S OFFICE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL B. HARGRAVES, MANUEL E.) COLLECTIVE ACTION
WASHINGTON, MARK L. HENRY,)
STEVEN L. DAMAN, and WALTER M.) NO. 05-2-10210-1 SEA
HAYDEN, individuals and as)
representatives of similarly situated City of) SUMMONS
Seattle Police Department employees,)

Plaintiffs,

v.

CITY OF SEATTLE, a political
subdivision of the State of Washington,

Defendant.

TO: Greg Nickels, Mayor of City of Seattle
Seattle City Hall
600 4th Avenue
Seattle, Washington 98104

TO THE DEFENDANT: A collective action lawsuit has been started against the City of Seattle in the above-entitled Court by Michael B. Hargraves, Manuel E. Washington, Mark L. Henry, Steven L. Daman, and Walter M. Hayden, individuals and as representatives in a collective action of similarly situated overtime eligible employees of the

SUMMONS - 1

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

1 City of Seattle in the Seattle Police Department. Plaintiffs' claims are stated in the written
2 Complaint, a copy of which is served upon you with this summons.

3 In order to defend against this lawsuit, you must respond to the complaint by stating
4 your defense in writing, and by serving a copy upon the person signing this summons
5 within twenty (20) days after the service of this summons, excluding the day of service, or
6 a default judgment may be entered against you without notice. A default judgment is one
7 where a plaintiff is entitled to what it asks for because the defendant has not responded.
8 If you serve a notice of appearance on the undersigned person, you are entitled to notice
9 before a default judgment may be entered.

10 You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand
11 must be in writing and must be served upon the person signing this summons. Within
12 fourteen (14) days after you serve the demand, plaintiff must file this lawsuit with the
13 court, or the service on you of this summons and complaint will be void.

14 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
15 that your written response, if any, may be served on time.

16 This summons is issued pursuant to Rule 4 of the Superior Court Civil Rules of the
17 State of Washington.

18 Dated this 25th day of March, 2005.

19
20 **AITCHISON & VICK, INC.**

21 *William Aitchison WSBA # 31852*
22 *for Will Aitchison*
23 Will Aitchison, WSBA #32658
24 Attorneys for Plaintiffs
25

SUMMONS - 2

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

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CITY OF SEATTLE
MAYOR'S OFFICE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL B. HARGRAVES, ET AL

NO. 05-2-10210-1 SEA

Order Setting Civil Case Schedule (*ORSCS)

vs

Plaintiff(s)

CITY OF SEATTLE,

ASSIGNED JUDGE Rogers 45

FILE DATE: 03/28/2005

Defendant(s)

TRIAL DATE: 09/18/2006

A civil case has been filed in the King County Superior Court and will be managed by the Case Schedule on Page 3 as ordered by the King County Superior Court Presiding Judge.

I. NOTICES

NOTICE TO PLAINTIFF: The Plaintiff may serve a copy of this **Order Setting Case Schedule (Schedule)** on the Defendant(s) along with the **Summons and Complaint/Petition**. Otherwise, the Plaintiff shall serve the **Schedule** on the Defendant(s) within 10 days after the later of: (1) the filing of the **Summons and Complaint/Petition** or (2) service of the Defendant's first response to the **Complaint/Petition**, whether that response is a **Notice of Appearance**, a response, or a Civil Rule 12 (CR 12) motion. The **Schedule** may be served by regular mail, with proof of mailing to be filed promptly in the form required by Civil Rule 5 (CR 5).

"I understand that I am required to give a copy of these documents to all parties in this case."

Print Name

Sign Name

I. NOTICES (continued)

NOTICE TO ALL PARTIES:

All attorneys and parties should make themselves familiar with the King County Local Rules [KCLR] -- especially those referred to in this *Schedule*. In order to comply with the *Schedule*, it will be necessary for attorneys and parties to pursue their cases vigorously from the day the case is filed. For example, discovery must be undertaken promptly in order to comply with the deadlines for joining additional parties, claims, and defenses, for disclosing possible witnesses [See KCLR 26], and for meeting the discovery cutoff date [See KCLR 37(g)].

SHOW CAUSE HEARINGS FOR CIVIL CASES [King County Local Rule 4(g)]

A Confirmation of Joinder, Claims and Defenses or a Statement of Arbitrability must be filed by the deadline in the schedule. A review of the case will be undertaken to confirm service of the original complaint and to verify that all answers to claims, counterclaims and cross-claims have been filed. If those mandatory pleadings are not in the file, a *Show Cause Hearing* will be set before the Chief Civil or RJC judge. The Order to Show Cause will be mailed to all parties and designated parties or counsel are required to attend.

PENDING DUE DATES CANCELED BY FILING PAPERS THAT RESOLVE THE CASE:

When a final decree, judgment, or order of dismissal of all parties and claims is filed with the Superior Court Clerk's Office, and a courtesy copy delivered to the assigned judge, all pending due dates in this *Schedule* are automatically canceled, including the scheduled Trial Date. It is the responsibility of the parties to 1) file such dispositive documents within 45 days of the resolution of the case, and 2) strike any pending motions by notifying the bailiff to the assigned judge.

Parties may also authorize the Superior Court to strike all pending due dates and the Trial Date by filing a *Notice of Settlement* pursuant to KCLR 41, and forwarding a courtesy copy to the assigned judge. If a final decree, judgment or order of dismissal of all parties and claims is not filed by 45 days after a *Notice of Settlement*, the case may be dismissed with notice.

If you miss your scheduled Trial Date, the Superior Court Clerk is authorized by KCLR 41(b)(2)(A) to present an *Order of Dismissal*, without notice, for failure to appear at the scheduled Trial Date.

NOTICES OF APPEARANCE OR WITHDRAWAL AND ADDRESS CHANGES:

All parties to this action must keep the court informed of their addresses. When a Notice of Appearance/Withdrawal or Notice of Change of Address is filed with the Superior Court Clerk's Office, parties must provide the assigned judge with a courtesy copy.

ARBITRATION FILING AND TRIAL DE NOVO POST ARBITRATION FEE:

A Statement of Arbitrability must be filed by the deadline on the schedule if the case is subject to mandatory arbitration and service of the original complaint and all answers to claims, counterclaims and cross-claims have been filed. If mandatory arbitration is required after the deadline, parties must obtain an order from the assigned judge transferring the case to arbitration. Any party filing a Statement must pay a \$220 arbitration fee. If a party seeks a trial de novo when an arbitration award is appealed, a fee of \$250 and the request for trial de novo must be filed with the Clerk's Office Cashiers.

NOTICE OF NON-COMPLIANCE FEES:

All parties will be assessed a fee authorized by King County Code 4.71.050 whenever the Superior Court Clerk must send notice of non-compliance of schedule requirements and/or Local Rule 41.

King County Local Rules are available for viewing at www.metrokc.gov/kcsccl.

II. CASE SCHEDULE

CASE EVENT	DEADLINE or EVENT DATE	Filing Needed
Case Filed and Schedule Issued.	Mon 03/28/2005	*
Confirmation of Service [See KCLR 4.1].	Mon 04/25/2005	*
Last Day for Filing Statement of Arbitrability without a Showing of Good Cause for Late Filing [See KCLMAR 2.1(a) and Notices on Page 2]. \$220 arbitration fee must be paid	Tue 09/06/2005	*
DEADLINE to file Confirmation of Joinder if not subject to Arbitration. [See KCLR 4.2(a) and Notices on Page 2]. Show Cause hearing will be set if Confirmation is not filed.	Tue 09/06/2005	*
DEADLINE for Hearing Motions to Change Case Assignment Area. [See KCLR 82(e)]	Mon 09/19/2005	
DEADLINE for Disclosure of Possible Primary Witnesses [See KCLR 26(b)].	Mon 04/17/2006	
DEADLINE for Disclosure of Possible Additional Witnesses [See KCLR 26(b)].	Tue 05/30/2006	
DEADLINE for Jury Demand [See KCLR 38(b)(2)].	Mon 06/12/2006	*
DEADLINE for Setting Motion for a Change in Trial Date [See KCLR 40(e)(2)].	Mon 06/12/2006	*
DEADLINE for Discovery Cutoff [See KCLR 37(g)].	Mon 07/31/2006	
DEADLINE for Engaging in Alternative Dispute Resolution [See KCLR 16(c)].	Mon 08/21/2006	
DEADLINE for Exchange Witness & Exhibit Lists & Documentary Exhibits [See KCLR 16(a)(4)].	Mon 08/28/2006	
DEADLINE to file Joint Confirmation of Trial Readiness [See KCLR 16(a)(2)].	Mon 08/28/2006	*
DEADLINE for Hearing Dispositive Pretrial Motions [See KCLR 56; CR 56].	Tue 09/05/2006	
Joint Statement of Evidence [See KCLR 16(a)(5)].	Mon 09/11/2006	*
Trial Date [See KCLR 40].	Mon 09/18/2006	

III. ORDER

Pursuant to King County Local Rule 4 [KCLR 4], IT IS ORDERED that the parties shall comply with the schedule listed above. Penalties, including but not limited to sanctions set forth in Local Rule 4(g) and Rule 37 of the Superior Court Civil Rules, may be imposed for non-compliance. It is FURTHER ORDERED that the party filing this action must serve this *Order Setting Civil Case Schedule* and attachment on all other parties.

DATED: 03/28/2005

Richard D. Erdie

PRESIDING JUDGE

IV. ORDER ON CIVIL PROCEEDINGS FOR ASSIGNMENT TO JUDGE

READ THIS ORDER PRIOR TO CONTACTING YOUR ASSIGNED JUDGE

This case is assigned to the Superior Court Judge whose name appears in the caption of this Schedule. The assigned Superior Court Judge will preside over and manage this case for all pre-trial matters.

COMPLEX LITIGATION: If you anticipate an unusually complex or lengthy trial, please notify the assigned court as soon as possible.

The following procedures hereafter apply to the processing of this case:

APPLICABLE RULES:

a. Except as specifically modified below, all the provisions of King County Local Rules 4 through-26 shall apply to the processing of civil cases before Superior Court Judges.

CASE SCHEDULE AND REQUIREMENTS:

A. Show Cause Hearing: A Show Cause Hearing will be held before the Chief Civil/Chief RJC judge if the case does not have confirmation of service on all parties, answers to all claims, crossclaims, or counterclaims as well as the confirmation of joinder or statement of arbitrability filed before the deadline in the attached case schedule. All parties will receive an *Order to Show Cause* that will set a specific date and time for the hearing. Parties and/or counsel who are required to attend will be named in the order.

B. Pretrial Order: An order directing completion of a Joint Confirmation of Trial Readiness Report will be mailed to all parties approximately six (6) weeks before trial. **This order will contain deadline dates for the pretrial events listed in King County Local Rule 16:**

- 1) Settlement/Mediation/ADR Requirement;
- 2) Exchange of Exhibit Lists;
- 3) Date for Exhibits to be available for review;
- 4) Deadline for disclosure of witnesses;
- 5) Deadline for filing Joint Statement of Evidence;
- 6) Trial submissions, such as briefs, Joint Statement of Evidence, jury instructions;
- 7) voir dire questions, etc;
- 8) Use of depositions at trial;
- 9) Deadlines for nondispositive motions;
- 10) Deadline to submit exhibits and procedures to be followed with respect to exhibits;
- 11) Witnesses -- identity, number, testimony;

C. Joint Confirmation regarding Trial Readiness Report: No later than twenty one (21) days before the trial date, parties shall complete and file (with a copy to the assigned judge) a joint confirmation report setting forth whether a jury demand has been filed, the expected duration of the trial, whether a settlement conference has been held, and special problems and needs (e.g. interpreters, equipment), etc. If parties wish to request a CR 16 conference, they must contact the assigned court. Plaintiff/petitioner's counsel is responsible for contacting the other parties regarding said report.

D. Settlement/Mediation/ADR:

1) Forty five (45) days before the Trial Date, counsel for plaintiff shall submit a written settlement demand. Ten (10) days after receiving plaintiff's written demand, counsel for defendant shall respond (with a counteroffer, if appropriate).

2) Twenty eight (28) days before the Trial Date, a settlement/mediation/ADR conference shall have been held. **FAILURE TO COMPLY WITH THIS SETTLEMENT CONFERENCE REQUIREMENT MAY RESULT IN SANCTIONS.**

E. Trial: Trial is scheduled for 9:00 a.m. on the date on the *Schedule* or as soon thereafter as convened by the court. The Friday before trial, the parties should access the King County Superior Court website at www.metrokc.gov/kcsc to confirm trial judge assignment. Information can also be obtained by calling (206) 205-5984.

MOTIONS PROCEDURES:

A. Noting of Motions

Dispositive Motions: All Summary Judgment or other motions that dispose of the case in whole or in part will be heard with oral argument before the assigned judge. The moving party must arrange with the courts a date and time for the hearing, consistent with the court rules.

King County Local Rule 7 and King County Local Rule 56 govern procedures for all summary judgment or other motions that dispose of the case in whole or in part. The local rules can be found at www.metrokc.gov/kcsc.

Nondispositive Motions: These motions, which include discovery motions, will be ruled on by the assigned judge without oral argument, unless otherwise ordered. All such motions must be noted for a date by which the ruling is requested; this date must likewise conform to the applicable notice requirements. Rather than noting a time of day, the *Note for Motion* should state "Without Oral Argument." King County Local Rule 7 governs these motions, which include discovery motions. The local rules can be found at www.metrokc.gov/kcsc.

Motions in Family Law Cases not involving children: Discovery motions to compel, motions in limine, motions relating to trial dates and motions to vacate judgments/dismissals shall be brought before the assigned judge. All other motions should be noted and heard on the Family Law Motions Calendar. King County Local Rule 7 and King County Family Law Local Rules govern these procedures. The local rules can be found at www.metrokc.gov/kcsc.

Emergency Motions: Emergency motions will be allowed only upon entry of an *Order Shortening Time*. However, emergency discovery disputes may be addressed by telephone call, and without written motion, if the judge approves.

Filing of Documents All original documents must be filed with the Clerk's Office. *The working copies of all documents in support or opposition must be marked on the upper right corner of the first page with the date of consideration or hearing and the name of the assigned judge.* The assigned judge's working copy must be delivered to his/her courtroom or to the judges' mailroom. Do not file working copies with the Motions Coordinator, except those motions to be heard on the Family Law Motions Calendar, in which case the working copies should be filed with the Family Law Motions Coordinator.

Original Proposed Order: Each of the parties must include in the working copy materials submitted on any motion an original proposed order sustaining his/her side of the argument. Should any party desire a copy of the order as signed and filed by the judge, a preaddressed, stamped envelope shall accompany the proposed order.

Presentation of Orders: All orders, agreed or otherwise, must be presented to the assigned judge. If that judge is absent, contact the assigned court for further instructions. If another judge enters an order on the case, counsel is responsible for providing the assigned judge with a copy.

Proposed orders finalizing settlement and/or dismissal by agreement of all parties shall be presented to the assigned judge or in the Ex Parte Department. Formal proof in Family Law cases must be scheduled before the assigned judge by contacting the bailiff, or formal proof may be entered in the Ex Parte Department. If final orders and/or formal proof are entered in the Ex Parte Department, counsel is responsible for providing the assigned judge with a copy.

C. Form: Memoranda/briefs for matters heard by the assigned judge may not exceed twenty four (24) pages for dispositive motions and twelve (12) pages for nondispositive motions, unless the assigned judge permits over-length memoranda/briefs in advance of filing. Over-length memoranda/briefs and motions supported by such memoranda/briefs may be stricken.

IT IS SO ORDERED. FAILURE TO COMPLY WITH THE PROVISIONS OF THIS ORDER MAY RESULT IN DISMISSAL OR OTHER SANCTIONS. PLAINTIFF/PETITIONER SHALL FORWARD A COPY OF THIS ORDER AS SOON AS PRACTICABLE TO ANY PARTY WHO HAS NOT RECEIVED THIS ORDER.

Richard D. Erskine

PRESIDING JUDGE

RECEIVED
05 MAR 28 PM 3:26
CITY OF SEATTLE
HAYDEN'S OFFICE

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT DESIGNATION
and
CASE INFORMATION COVER SHEET
(cics)**

In accordance with LR82(e), a faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to King County Code 4.71.100.

CASE NUMBER: 05-2-10210-1 SEA

CASE CAPTION: MICHAEL B. HARGRAVES, MANUEL E. WASHINGTON, MARK L. HENRY, STEVEN L. DAMAN, and WALTER M. HAYDEN, individuals and as representatives of similarly situated City of Seattle Police Department employees, v. CITY OF SEATTLE, a political subdivision of the State of Washington,

I certify that this case meets the case assignment criteria, described in King County LR 82(e), for the:

X Seattle Area, defined as:

All of King County north of Interstate 90 and including all of the Interstate 90 right-of-way; all the cities of Seattle, Mercer Island, Bellevue, Issaquah and North Bend; and all of Vashon and Maury Islands.

 Kent Area, defined as:

All of King County south of Interstate 90 except those areas included in the Seattle Case Assignment Area.

Signature of Petitioner/Plaintiff

Date

or

Allan McClure

Signature of Attorney for
Petitioner/Plaintiff

March 25, 2005

Date

31852

WSBA Number

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT DESIGNATION
and**

CASE INFORMATION COVER SHEET

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

APPEAL/REVIEW

- ☐ Administrative Law Review (ALR 2)*
☐ Civil, DOL (DOL 2)*

CONTRACT/COMMERCIAL

- ☐ Breach of Contract (COM 2)*
☐ Commercial Contract (COM 2)*
☐ Commercial Non-Contract (COL 2)*
☐ Mercetracious Relationship (MER 2)*
☐ Third Party Collection (COL 2)*

DOMESTIC RELATIONS

- ☐ Annulment/Invalidity (with dependent children? Y) (INV 3)*
☐ Child Custody (CUS 3)*
☐ Nonparental Custody (CUS 3)*
☐ Dissolution With Children (DIC 3)*
☐ Dissolution With No Children (DIN 3)*
☐ Enforcement/Show Cause Out of County (MSC 3)
☐ Establish Residential Sched/Parenting Plan (PPS 3)* ~~EE~~
☐ Establish Residential Sched Supprt Only (PPS 3)* ~~EE~~
☐ Legal Separation (with dependent children? Y N) (SEP 3)*
☐ Mandatory Wage Assignment (MWA 3)
☐ Modification (MOD 3)*
☐ Modification - Support Only (MDS 3)*
☐ Out-of-state Custody Order Registration (OSC 3 or 5)
☐ Reciprocal, Respondent in County (RIC 3)
☐ Reciprocal, Respondent Out of County (ROC 3)
☐ Registration of Out of State Support Court Order (FJU 3)
☐ Relocation Objection/Modification (MOD 3)*

ADOPTION/PATERNITY

- ☐ Adoption (ADP 5)
☐ Challenge to Acknowledgment of Paternity (PAT 5)*
☐ Challenge to Denial of Paternity (PAT 5)*
☐ Confidential Intermediary (MSC 5)
☐ Establish Parenting Plan-Existing King County Paternity (MSC 5)*
☐ Initial Pre-Placement Report (PPR 5)
☐ Modification (MOD 5)*
☐ Modification-Support Only (MDS 5)*
☐ Paternity (PAT 5)*
☐ Paternity/UIFSA (PUR 5)*
☐ Registration of Out of State Support Court Order (FJU 5)
☐ Relinquishment (REL 5)
☐ Relocation Objection/Modification (MOD 5)*
☐ Rescission of Acknowledgment of Paternity (PAT 5)*
☐ Rescission of Denial of Paternity (PAT 5)*
☐ Termination of Parent-Child Relationship (TER 5)

DOMESTIC VIOLENCE/ANTI-HARASSMENT

- ☐ Civil Harassment (HAR 2)
☐ Confidential Name Change (CHN 5)
☐ Domestic Violence (DVP 2)
☐ Domestic Violence with Children (DVC 2)
☐ Foreign Protection Order (FPO 2)
☐ Vulnerable Adult Protection (VAP 2)
☐ Civil Harassment (HAR 2)

~~EE~~ Paternity Affidavit or Existing/Paternity is not an issue and NO other case exists in King County* The filing party will be given an appropriate case schedule. ** Case schedule will be issued after hearing and findings.

**KING COUNTY SUPERIOR COURT
CASE ASSIGNMENT DESIGNATION**

**and
CASE INFORMATION COVER SHEET**

Please check one category that best describes this case for indexing purposes. Accurate case indexing not only saves time but helps in forecasting judicial resources. A faulty document fee of \$15 will be assessed to new case filings missing this sheet pursuant to Administrative Rule 2 and King County Code 4.71.100.

PROPERTY RIGHTS

- ☐ Condemnation/Eminent Domain (CON 2)*
- ☐ Foreclosure (FOR 2)*
- ☐ Land Use Petition (LUP 2)*
- ☐ Property Fairness (PFA 2)*
- ☐ Quiet Title (QTI 2)*
- ☐ Unlawful Detainer (UND 2)

JUDGMENT

- ☐ Confession of Judgment (MSC 2)*
- ☐ Judgment, Another County, Abstract (ABJ 2)
- ☐ Judgment, Another State or Country (FJU 2)
- ☐ Tax Warrant (TAX 2)
- ☐ Transcript of Judgment (TRJ 2)

OTHER COMPLAINT/PETITION

- ☐ Action to Compel/Confirm Private Binding Arbitration (MSC 2)
- ☐ Certificate of Rehabilitation (MSC 2)
- ☐ Change of Name (CHN 2)
- ☐ Deposit of Surplus Funds (MSC 2)
- ☐ Emancipation of Minor (EOM 2)
- ☐ Frivolous Claim of Lien (MSC 2)
- ☐ Injunction (INI 2)*
- ☐ Interpleader (MSC 2)
- ☐ Malicious Harassment (MHA 2)*
- ☐ Non-Judicial Filing (MSC 2)
- ☒ Other Complaint/Petition (MSC 2)*
- ☐ Seizure of Property from the Commission of a Crime (SPC 2)*
- ☐ Seizure of Property Resulting from a Crime (SPR 2)*
- ☐ Structured Settlements (MSC 2)*
- ☐ Subpoena (MSC 2)

X FAIR LABOR STANDARDS ACT**PROBATE/GUARDIANSHIP**

- ☐ Absentee (ABS 4)
- ☐ Disclaimer (DSC 4)
- ☐ Estate (EST 4)
- ☐ Foreign Will (FNW 4)
- ☐ Guardian (GDN 4)
- ☐ Limited Guardianship (LGE 4)
- ☐ Minor Settlement (MST 4)
- ☐ Non-Probate Notice to Creditors (NNC 4)
- ☐ Trust (TRS 4)
- ☐ Trust Estate Dispute Resolution Act/POA (TDR 4)
- ☐ Will Only (WLL 4)

TORT, MEDICAL MALPRACTICE

- ☐ Hospital (MED 2)*
- ☐ Medical Doctor (MED 2)*
- ☐ Other Health Care Professional (MED 2)*

TORT, MOTOR VEHICLE

- ☐ Death (TMV 2)*
- ☐ Non-Death Injuries (TMV 2)*
- ☐ Property Damage Only (TMV 2)*

TORT, NON-MOTOR VEHICLE

- ☐ Asbestos (PIN 2)**
- ☐ Implants (PIN 2)
- ☐ Other Malpractice (MAL 2)*
- ☐ Personal Injury (PIN 2)*
- ☐ Products Liability (TTO 2)*
- ☐ Property Damage (PRP 2)*
- ☐ Wrongful Death (WDE 2)*
- ☐ Tort, Other (TTO 2)*

WRIT

- ☐ Habeas Corpus (WHC 2)
- ☐ Mandamus (WRM 2)**
- ☐ Review (WRV 2)**

* The filing party will be given an appropriate case schedule. ** Case schedule will be issued after hearing and findings.

RECEIVED
05 MAR 28 PM 3:25
CITY OF SEATTLE
HAYDEN'S OFFICE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL B. HARGRAVES, MANUEL E.) COLLECTIVE ACTION
WASHINGTON, MARK L. HENRY,)
STEVEN L. DAMAN, and WALTER M.) NO. 05-2-10210-1 SEA
HAYDEN, individuals and as)
representatives of similarly situated City of) CONSENT TO JOIN
Seattle Police Department employees,)
Plaintiffs,)
v.)
CITY OF SEATTLE, a political)
subdivision of the State of Washington,)
Defendant.

Pursuant to Section 16(b) of the Fair Labor Standards Act of 1938, 29 USC
216(b), plaintiffs hereby file their consent to join action.

The following employees of defendant CITY OF SEATTLE consent to join this
action:

Last name	First name	Mi
Daman	Steven	L.

CONSENT TO JOIN - 1

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

Hargraves	Michael	B.
Hayden	Walter	M.
Henry	Mark	L.
Washington	Manuel	E.

The above-listed employees consent to their inclusion as party plaintiffs in this action as noted in the executed "Consent to Join Action" attached hereto as Exhibit A.

RESPECTFULLY SUBMITTED this 25th day of March, 2005.

AITCHISON & VICK, INC.

William McAlister WSBA #31852
 By: *for Will Aitchison*
 Will Aitchison, WSBA # 32658
 Of Attorneys for Plaintiffs

CONSENT TO JOIN - 2

Aitchison & Vick, Inc.
 5701 6th Avenue South
 Seattle Design Center, Suite 491A
 Seattle, Washington 98108
 (206) 957-0926 Fax: 206-762-2418

Exhibit A

**CONSENT TO JOIN ACTION
(FAIR LABOR STANDARDS ACT, 29 U.S.C. 216(b))**

I, STEVE DAMAN, of the County of KING, State of Washington, hereby consent to become a party to an action under the Fair Labor Standards Act (29 U.S.C. §201 et. seq.), concerning the City of Seattle's failure to properly compensate its employees for overtime hours worked. I am, or was, employed by the City of Seattle during some or all of the period February of 2002 to February of 2005. This action will be brought on my behalf and on the behalf of similarly situated employees of the City of Seattle pursuant to Section 16(b) of the Fair Labor Standards Act (29 U.S.C. §216(b)). Unpaid overtime compensation, liquidated damages, attorney's fees and other relief will be sought.



Print Name: STEVE DAMAN

Date: 2/21/2005

**CONSENT TO JOIN ACTION
(FAIR LABOR STANDARDS ACT, 29 U.S.C. 216(b))**

I, MIKE HARGRAVES, of the County of KING, State of Washington, hereby consent to become a party to an action under the Fair Labor Standards Act (29 U.S.C. §201 et. seq.), concerning the City of Seattle's failure to properly compensate its employees for overtime hours worked. I am, or was, employed by the City of Seattle during some or all of the period February of 2002 to February of 2005. This action will be brought on my behalf and on the behalf of similarly situated employees of the City of Seattle pursuant to Section 16(b) of the Fair Labor Standards Act (29 U.S.C. §216(b)). Unpaid overtime compensation, liquidated damages, attorney's fees and other relief will be sought.

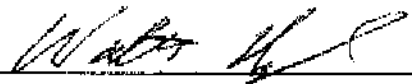
Michael B. Hargraves

Print Name: MICHAEL B. HARGRAVES

Date: 2-23-05

**CONSENT TO JOIN ACTION
(FAIR LABOR STANDARDS ACT, 29 U.S.C. 216(b))**

I, WALTER HAYDEN, of the County of KING, State of Washington, hereby consent to become a party to an action under the Fair Labor Standards Act (29 U.S.C. §201 et. seq.), concerning the City of Seattle's failure to properly compensate its employees for overtime hours worked. I am, or was, employed by the City of Seattle during some or all of the period February of 2002 to February of 2005. This action will be brought on my behalf and on the behalf of similarly situated employees of the City of Seattle pursuant to Section 16(b) of the Fair Labor Standards Act (29 U.S.C. §216(b)). Unpaid overtime compensation, liquidated damages, attorney's fees and other relief will be sought.



Print Name: WALTER HAYDEN

Date: 2/18/05

**CONSENT TO JOIN ACTION
(FAIR LABOR STANDARDS ACT, 29 U.S.C. 216(b))**

I, MARK HENRY, of the County of KING, State of Washington, hereby consent to become a party to an action under the Fair Labor Standards Act (29 U.S.C. §201 et. seq.), concerning the City of Seattle's failure to properly compensate its employees for overtime hours worked. I am, or was, employed by the City of Seattle during some or all of the period February of 2002 to February of 2005. This action will be brought on my behalf and on the behalf of similarly situated employees of the City of Seattle pursuant to Section 16(b) of the Fair Labor Standards Act (29 U.S.C. §216(b)). Unpaid overtime compensation, liquidated damages, attorney's fees and other relief will be sought.

Mark Henry

Print Name: MARK HENRY

Date: 2-21-05

**CONSENT TO JOIN ACTION
(FAIR LABOR STANDARDS ACT, 29 U.S.C. 216(b))**

MANUEL E. WASHINGTON of the County of KING, State of Washington, hereby consent to become a party to an action under the Fair Labor Standards Act (29 U.S.C. §201 et. seq.), concerning the City of Seattle's failure to properly compensate its employees for overtime hours worked. I am, or was, employed by the City of Seattle during some or all of the period February of 2002 to February of 2005. This action will be brought on my behalf and on the behalf of similarly situated employees of the City of Seattle pursuant to Section 16(b) of the Fair Labor Standards Act (29 U.S.C. §216(b)). Unpaid overtime compensation, liquidated damages, attorney's fees and other relief will be sought.

Manuel E. Washington

Print Name MANUEL E. WASHINGTON

Date: 2/22/05

FILED

2005 MAR 29 PM 4:55

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

**SUPERIOR COURT, IN AND FOR THE COUNTY OF KING, STATE OF
WASHINGTON**

MICHAEL B. HARGRAVES; ET AL.,
Plaintiff/Petitioner

Cause #: 05-2-10210-1
SEA

vs.
CITY OF SEATTLE, A POLITICAL SUBDIVISION
OF THE STATE OF WASHINGTON
Defendant/Respondent

Declaration of Service of:

SUMMONS AND COMPLAINT; ORDER SETTING CIVIL
CASE SCHEDULE; CASE ASSIGNMENT DESIGNATION
AND CASE INFORMATION COVER SHEET; CONSENT TO
JOIN

Hearing Date:

Declaration:

The undersigned hereby declares: That s(he) is now and at all times herein mentioned, a citizen of the United States and a resident of the State of Washington, over the age of eighteen, not an officer of a plaintiff corporation, not a party to nor interested in the above entitled action, and is competent to be a witness therein.

On the date and time of Mar 28 2005 3:26PM at the address of 600 4TH AVE SUITE 1200 SEATTLE, within the County of King, State of Washington, the declarant duly served the above described documents upon CITY OF SEATTLE, A POLITICAL SUBDIVISION OF THE STATE OF WASHINGTON by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to and leaving the same with ELIZABETH MINNIS ADMINISTRATIVE SUPPORT SPECIALIST IN THE OFFICE OF THE MAYOR.

No information was provided that indicates that the subjects served are members of the U.S. military.

I hereby declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated: March 28, 2005 at Seattle, WA

by J. Carrigan

Service Fee Total \$ 81.55

ABC Legal Services, Inc.
(206) 521-9000
Tracking #: 2358565



**ORIGINAL
PROOF OF SERVICE**

Page 1 of 1

Aitchison & Vick
5701 6th Ave S, #491-A
Seattle, WA 98108
206 957-0926

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL B. HARGRAVES, MANUEL E.) COLLECTIVE ACTION

WASHINGTON, MARK L. HENRY,)

STEVEN L. DAMAN, and WALTER M.) NO. 05-2-10210-1SEA

HAYDEN, individuals and as)

representatives of similarly situated City of) SUMMONS

Seattle Police Department employees,)

Plaintiffs,)

v.)

CITY OF SEATTLE, a political)

subdivision of the State of Washington,)

Defendant.

TO: Greg Nickels, Mayor of City of Seattle
Seattle City Hall
600 4th Avenue
Seattle, Washington 98104

TO THE DEFENDANT: A collective action lawsuit has been started against the City of Seattle in the above-entitled Court by Michael B. Hargraves, Manuel E. Washington, Mark L. Henry, Steven L. Daman, and Walter M. Hayden, individuals and as representatives in a collective action of similarly situated overtime eligible employees of the

SUMMONS - 1

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

RECEIVED

Hon. Jim Rogers
Trial Date: 9/18/06

2005 APR -4 PM 12: 28

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

RECEIVED
JUDGES MAIL ROOM
2005 APR -4 PM 2: 21
KING COUNTY
SUPERIOR COURT

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MICHAEL B. HARGRAVES, MANUEL E.
WASHINGTON, MARK L. HENRY, STEVEN
L. DAMAN, and WALTER M. HAYDEN,
individuals and as representatives of similarly
situated City of Seattle Police Department
employees,

Plaintiffs,

vs.

CITY OF SEATTLE, a political subdivision of
the State of Washington,

Defendant.

No. 05-2-10210-1SEA

NOTICE OF APPEARANCE

[CLERK'S ACTION REQUIRED]

TO: Clerk of the above-entitled court; and

TO: Plaintiffs above-named, and their counsel, Hillary H. McClure:

PLEASE NOTE that Defendant, City of Seattle, Seattle Police Department, by and through
its undersigned attorney, and without waiving any objections as to improper service, process,
jurisdiction, venue, or any other CR 12 insufficiencies, enters its appearance in this action and
requests that all future papers and pleadings in this matter, except original process, be served on this

NOTICE OF APPEARANCE - 1

noa.doc

COPY

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

1 attorney at the address stated below.

2 DATED this 1st day of April, 2005.

3 THOMAS A. CARR
4 Seattle City Attorney

5 By: 

6 Jeff Slayton, WSBA #14215
7 Assistant City Attorney
8 Seattle City Attorney's Office
9 600 4th Avenue, 4th Floor
10 P.O. Box 94769
11 Seattle, WA 98124-4769
12 Ph: (206) 233-2154
13 Fax: (206) 684-8284
14 jeff.slayton@seattle.gov

15 Attorneys for Defendant
16 City of Seattle, Seattle Police Department
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21
22
23

NOTICE OF APPEARANCE - 2

nqa.doc

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

DECLARATION OF SERVICE

KIM FABEL states and declares as follows:

1. I am over the age of 18, am competent to testify in this matter, am a Legal Assistant in the Law Department, Civil Division, Seattle City Attorney's Office, and make this declaration based on my personal knowledge and belief.


2. On April 4, 2005, I caused to be delivered by ABC-Legal Services, Inc. addressed to:

Hillary H. McClure
Aitchison & Vick, Inc.
5701 6th Ave. S., Suite 491A
Seattle, WA 98108

a copy of Defendant's Notice of Appearance, dated April 1, 2005.

3. I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 4th day of April, 2005, at Seattle, King County, Washington.


KIM FABEL

Hon. Thomas S. Zilly

FILED ENTERED
LODGED RECEIVED

APR - 8 2005 ES

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL B. HARGRAVES, MANUEL E.)
WASHINGTON, MARK L. HENRY,)
STEVEN L. DAMAN, and WALTER M.) No. C05-0670TSZ
HAYDEN, individuals and as representatives)
of similarly situated City of Seattle Police) KING COUNTY SUPERIOR COURT
Department employees,) CAUSE NO. 05-2-10210-1SEA
)
Plaintiffs,)
) CERTIFICATE OF FILING OF NOTICE OF
vs.) REMOVAL TO FEDERAL COURT
)
CITY OF SEATTLE, apolitical subdivision of)
the State of Washington,)
)
Defendant.)

I, on behalf of Barbara Miner, Director of the King County Superior Court Clerk's Office, do hereby certify that on April 8, 2005, Defendant City of Seattle filed in my office in the above-entitled action brought by plaintiffs against defendant in the Superior Court of Washington for King County, a Notice of Filing of Notice of Removal to Federal Court together with a copy of the Notice of Removal, and that the attached is a true and correct copy of such Notice as it appears on file and of record in this office.

CERTIFICATE OF FILING NOTICE OF REMOVAL
TO FEDERAL COURT - 1

ORIGINAL

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

1 IN WITNESS WHEREOF, I set my hand and affix my official seal in King County on
2 April 8, 2005.

3 
4 **A. BELL**

Barbara Miner
Director, King County Superior Court Clerk's Office

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CERTIFICATE OF FILING NOTICE OF REMOVAL
TO FEDERAL COURT - 2

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

ATTACHMENT

Hon. Jim Rogers

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

MICHAEL B. HARGRAVES, MANUEL E.)
WASHINGTON, MARK L. HENRY, STEVEN)
L. DAMAN, and WALTER M. HAYDEN,)
individuals and as representatives of similarly) No. 05-2-10210-1SEA
situated City of Seattle Police Department)
employees,) NOTICE OF FILING NOTICE OF
Plaintiffs,) REMOVAL TO FEDERAL COURT
vs.) [CLERK'S ACTION REQUIRED]
CITY OF SEATTLE, a political subdivision of)
the State of Washington,)
Defendant.)

TO: CLERK of the Superior Court of Washington for King County; and

TO: PLAINTIFFS, above-named, and their counsel, Hillary H. McClure:

PLEASE TAKE NOTICE that on April 7, 2005, Defendant City of Seattle filed a Notice of Removal to Federal Court in the United States District Court for the Western District of Washington at Seattle. A true and correct copy of the original Notice is attached hereto.


NOTICE OF FILING OF NOTICE OF REMOVAL
TO FEDERAL COURT - 1

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

1 DATED this 8th day of April, 2005.

2 THOMAS A. CARR
3 Seattle City Attorney

4 By:

5 
6 Jeff Slayton, WSBA #14215
7 Assistant City Attorney
8 Attorneys for Defendant City of Seattle
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NOTICE OF FILING OF NOTICE OF REMOVAL
TO FEDERAL COURT - 2

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8200

ATTACHMENT

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL B. HARGRAVES, MANUEL E.
WASHINGTON, MARK L. HENRY,
STEVEN L. DAMAN, and WALTER M.
HAYDEN, individuals and as representatives
of similarly situated City of Seattle Police
Department employees,

Plaintiffs,

vs.

CITY OF SEATTLE, apolitical subdivision of
the State of Washington,

Defendant.

No.

KING COUNTY SUPERIOR COURT
CAUSE NO. 05-2-10210-1SEA

NOTICE OF REMOVAL TO FEDERAL
COURT

☒ FILED ☐ ENTERED
☒ LODGED ☐ RECEIVED

★ APR - 7 2005 ★

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

TO: THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON AT SEATTLE:

Defendant City of Seattle (hereinafter "the City"), respectfully gives notice that it is
removing this case to the United States District Court for the Western District on the grounds set
forth below.

1. The City is the only named Defendant in the above-entitled action.
2. On March 28, 2005, the above-entitled action was filed against the City in the

NOTICE OF REMOVAL TO FEDERAL COURT - 1

COPY

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 468-9200

1 Superior Court in the State of Washington for King County, is now pending therein, and is cause
2 number 05-2-10210-1SEA. Defendant received a copy of the Complaint on March 28, 2005.

3 3. This Notice of Removal has been filed within 30 days of the Defendant's first
4 notice of federal claims and is therefore timely. 28 U.S.C. §1446(b).

5 4. In Plaintiffs' Complaint they allege that the City has violated the provisions of the
6 Fair Labor Standards Act, 29 U.S.C. §207(a) and 29 U.S.C. §215(a)(2).

7 5. The U.S. Supreme Court has specifically ruled that a claim under the Fair Labor
8 Standards Act may be removed from a state court to the United States District Court pursuant to
9 28 U.S.C. §1441(a). *Breuer v. Jim's Concrete of Brevard, Inc.*, 538 U.S. 691, 123 S.Ct. 1882,
10 155 L.Ed.2d 923, 71 USLW 4367, 196 A.L.R. Fed. 791 (2003).

11 6. This court is the District Court of the United States for the district and division
12 embracing the place where the state court action is currently pending, and is therefore the
13 appropriate court for removal pursuant to 28 U.S.C. §1441(a).

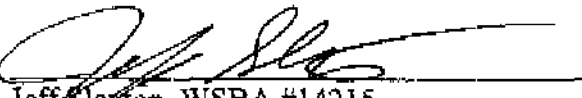
14 7. Written notice of the filing of this Notice of Removal will be served on counsel
15 for Plaintiff and a copy of the Notice will be filed with the Clerk of the Superior Court of
16 Washington for King County as provided by 28 U.S.C. §1446(d).

17 8. A true and correct copy of the Complaint is attached.

18 DATED this 7th day of April, 2005.

19 THOMAS A. CARR
20 Seattle City Attorney

21 By:

22 
Jeff Clayton, WSBA #14215
Assistant City Attorney

23 Attorneys for Defendant City of Seattle

NOTICE OF REMOVAL TO FEDERAL COURT - 2

Thomas A. Carr
Seattle City Attorney
600 Fourth Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4769
(206) 684-8700

ATTACHMENT

RECEIVED
05 MAR 28 PM 3:26
CITY OF SEATTLE
MAYOR'S OFFICE

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

MICHAEL B. HARGRAVES, MANUEL E.) COLLECTIVE ACTION
WASHINGTON, MARK L. HENRY,)
STEVEN L. DAMAN, and WALTER M.) NO. 05-2-10210-1SEA
HAYDEN, individuals and as) COMPLAINT
representatives of similarly situated City of)
Seattle Police Department employees,)
Plaintiffs,)
v.)
CITY OF SEATTLE, a political)
subdivision of the State of Washington,)
Defendant.

COMES NOW Michael B. Hargraves, Manuel E. Washington, Mark L. Henry
Steven L. Daman, and Walter M. Hayden , and, by and through their attorneys, Aitchison
& Vick, Inc. by Will Aitchison, and for their complaint against Defendant City of Seattle
state as follows:

COMPLAINT - 1

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

I.

PARTIES AND JURISDICTION

1.1 Plaintiffs Michael B. Hargraves, Manuel E. Washington, Mark L. Henry Steven L. Daman, and Walter M. Hayden (referred to herein after as the "Plaintiffs") are each employed by the City of Seattle as police officers in the Seattle Police Department in King County, Washington.

1.2 Defendant City of Seattle (referred to herein as the "City") is a political subdivision of the State of Washington and is fully subject to the Fair Labor Standards Act ("FLSA") because it is a public agency within the meaning of 29 U.S.C. §203(x).

1.3 This Court has jurisdiction over this subject matter pursuant to 29 U.S.C. §216 (b). Relief is appropriate pursuant to 29 U.S.C. §216 (b).

1.4 Venue is properly vested in this Court pursuant to 4.12.025 because the Defendant transacts business in King County.

1.5 The Tort Claims Act, RCW 4.96 *et seq.*, does not apply to these causes of action in that they do not sound in tort.

II.

COLLECTIVE ACTION

2.1 Pursuant to 29 U.S.C. §216 (b), Plaintiffs bring this action for and on behalf of themselves and other similarly situated individuals.

III.

FACTUAL ALLEGATIONS

3.1 Plaintiffs are overtime eligible employees of Defendant City of Seattle in the Seattle Police Department.

3.2 Defendant is, and at all times relevant to the claims stated herein, engaged in related activities in connection with the activities of a public agency performed by any person or persons for a common business purpose. Defendant is, and at all times relative to the claims stated herein, an enterprise within the meaning of 29 U.S.C. § 203(r).

3.3 Defendant is, and at all times relevant to the claims stated herein was, an enterprise engaged in commerce or in the production of goods for commerce in that it is an activity of a public agency. Defendant is, and at all times relevant to the claims stated herein was, an enterprise engaged in commerce or in the production of goods for commerce within the meaning of 29 U.S.C. §203(s).

3.4 The Seattle Center is owned and operated by the Defendant City of Seattle.

3.5 Defendant City of Seattle through the Seattle Police Department schedules Seattle Police Officers to work at the Seattle Center.

3.6 No exhaustion of remedies has been sought or is required in that this cause of action is individual and statutory and does not arise from either a breach of or an interpretation of any collective bargaining agreement.

IV.

FIRST CAUSE OF ACTION
VIOLATION OF FAIR LABOR STANDARDS ACT
FAILURE TO PAY OVERTIME COMPENSATION

4.1 Plaintiffs reallege the contents of Paragraphs 1.1 through 3.6 as though fully set forth herein.

4.2 Plaintiffs engaged in overtime hours worked for the Defendant City of Seattle at the Seattle Center.

4.3 Defendant has a routine practice of not paying Plaintiffs at one and one-half their regular rate of pay when Plaintiffs engage in overtime hours worked for Defendant at the Seattle Center.

4.4 As a result of the Defendant's practice, the overtime hours worked by the Plaintiffs are paid at the regular rate in violation of 29 U.S.C. §207(a) and 29 U.S.C. § 215 (a)(2).

4.5 Defendant City of Seattle's action in failing to pay the overtime compensation entitles each of the Plaintiffs to a judgment for their unpaid overtime compensation, an additional equal amount as liquidated damages together with their joint costs of suit and reasonable attorneys' fees under 29 U.S.C. §216 (b).

4.6 Defendant has willfully violated, and is willfully violating, the overtime compensation requirements of 29 U.S.C. §207 by failing to pay Plaintiffs at a rate of not less than one and one-half times the regular rate for hours in excess of the applicable maximum weekly hours established under 29 U.S.C. § 207.

1 4.7 As a result of Defendant's willful actions the Statute of Limitations in this
2 matter is three years pursuant to 29 U.S.C. §255 (a).

3 VI.

4 PRAYER FOR RELIEF

5 WHEREFORE, Plaintiffs pray to this Court for the following relief:

- 6 1. For the award of unpaid overtime compensation plus an additional
7 equal amount as liquidated damages to be paid to the named
8 Plaintiffs and all others similarly situated;
9
10 2. For the Plaintiffs attorneys' fees and costs under applicable law, 29
11 U.S.C. §216 (b);
12
13 3. For an award of prejudgment interest as allowed by law;
14
15 4. For a finding that the Defendant acted willfully and thus the statute
16 of limitations is three years under 29 U.S.C. §255 (a); and
17
18 5. For such other relief as the Court deems just and equitable.

19 RESPECTFULLY SUBMITTED this 28th day of March, 2005.

20 AITCHISON & VICK, INC.

21 By: William Aitchison WSBA # 31852
22 Will Aitchison, WSBA No. 32658
23 Of Attorneys for Plaintiffs
24
25

COMPLAINT - 5

Aitchison & Vick, Inc.
5701 6th Avenue South
Seattle Design Center, Suite 491A
Seattle, Washington 98108
(206) 957-0926 Fax: 206-762-2418

Hon. Thomas S. Zilly

FILED ENTERED
LODGED RECEIVED

APR - 8 2005 ES

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICHAEL B. HARGRAVES, MANUEL E.)
WASHINGTON, MARK L. HENRY,)
STEVEN L. DAMAN, and WALTER M.) No. C05-0670TSZ
HAYDEN, individuals and as representatives)
of similarly situated City of Seattle Police) KING COUNTY SUPERIOR COURT
Department employees,) CAUSE NO. 05-2-10210-1SEA
Plaintiffs,)
DECLARATION OF SERVICE
vs.)
CITY OF SEATTLE, apolitical subdivision of)
the State of Washington,)
Defendant.)

KIM FABEL, states and declares as follows:

1. I am over the age of 18, am competent to testify in this matter, am a Legal Assistant in the Law Department, Civil Division, of the Seattle City Attorney's Office, and make this declaration based on my personal knowledge and belief.

2. On April 8, 2005, I caused to be delivered by ABC Legal Services, Inc., addressed to:

DECLARATION OF SERVICE - 1

ORIGINAL

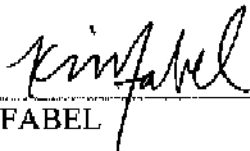
Thomas A. Carr
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(206) 684-8200

1 Hillary H. McClure
2 Aitchison & Vick, Inc.
3 5701 6th Ave. S., Suite 491A
4 Seattle, WA 98108

5 a copy of the following documents:

- 6 1. Civil Cover Sheet
- 7 2. Notice of Removal to Federal Court
- 8 3. Verification of Records and Proceedings in State Court
- 9 4. Notice of Filing of Notice of Removal to Federal Court
- 10 5. Certificate of Filing Notice of Removal to Federal Court
- 11 6. Declaration of Service

12 DATED this 8th day of April, 2005, in Seattle, Washington.

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14 KIM FABEL

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DECLARATION OF SERVICE - 2

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